

# Notice of Allowability

Application No.

10/003,720

Examiner

Chris Parry

Applicant(s)

DEW ET AL.

Art Unit

2623

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed on June 15, 2006.
2. ☒ The allowed claim(s) is/are 1,2,5 and 6.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_



**CHRISTOPHER GRANT**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2600**

## DETAILED ACTION

### *Election/Restrictions*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-6, drawn to establishing channels on an EPG based off of the location of the TV within the building, classified in class 725, subclass 53.
  - II. Claims 7-13, drawn to establishing a set of channels based on accessing a set of correlation heuristics, classified in class 725, subclass 50.
  - III. Claims 14-17, drawn to tailoring TV channels according to time, classified in class 725, subclass 44.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I, II, and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination II has separate utility such as establishing at least one TV channel based on a set of learned rules. Subcombination III has separate utility such as using a time input to highlight first programs on an EPG and to not highlight second programs on an EPG. See MPEP § 806.05(d).

Art Unit: 2623

3. Because these inventions are independent or distinct for the reasons given above and the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.
4. During a telephone conversation with Mr. John Rogitz on July 11, 2006 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-6. Affirmation of this election must be made by applicant in replying to this Office action. Claims 7-18 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.
5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

#### **EXAMINER'S AMENDMENT**

6. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. John Rogitz on July 14, 2006.

The application has been amended as follows:

Claim 1 has been amended as follows:

1. (currently amended) A system for automatically establishing at least one TV channel or electronic program guide (EPG) based on a location of a TV with respect to a dwelling, comprising:

a TV; and

a processor coupled to the TV and receiving information representative of a location of a TV within a building, the processor highlighting at least one of: a morning news show, or a cooking show, on the EPG if the TV is located in the kitchen; and

wherein the processor accesses a set of heuristics to undertake the highlighting act.

Claim 3 has been canceled because of failing to comply with the enablement requirement under 35 USC § 112.

Claim 4 has been canceled because the limitation has been added to amended claim 1.

Claims 7-20 have been canceled because the claims are directed towards a non-elected group.

***Allowable Subject Matter***

7. Claims 1, 2, 5, and 6 are allowed.

***Reasons for Allowance***

8. The following is an examiner's statement of reasons for allowance:

Regarding Claim 1, the Examiner could not find any art to teach or fairly suggest a processor coupled to the TV and receiving information representative of a location of a TV within a building, the processor highlighting at least one of: a morning news show, or a cooking show, on the EPG if the TV is located in the kitchen, wherein the processor accesses a set of heuristics to undertake the highlighting act in combination with other elements recited in the claim. The closest art of record, Chang (U.S. Pub. No. 2003/0009771) discloses a home-style user interface to an interactive television system that facilitates a user selecting a kitchen function 465 from menu 401 (¶ 118). However, Chang fails to explicitly disclose a processor accessing a set of heuristics to highlight at least one of a morning news show or a cooking show on an EPG if the TV is located in the kitchen.

Art Unit: 2623

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Note to Applicant***

9. Art Units 2611, 2614 and 2617 have changed to 2623. Please make sure all future correspondence indicate the new designation 2623.

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pub. No. 2003/0009771 to Chang – Discloses a method for associating an interactive function with a location within a home.

U.S. Pat. No. 5,585,838 to Lawler et al. – Discloses a method for highlighting programs that are currently available based on the current date and time.

U.S. Pat. No. 5,758,259 to Lawler – Discloses a method for determining a viewing history from a viewer and highlighting the viewing habits on the EPG.

U.S. Pat. No. 6,782,550 to Cao – Discloses a program guide with a current-time bar.

Art Unit: 2623

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chris Parry whose telephone number is (571) 272-8328. The examiner can normally be reached on Monday through Friday, 8:00 AM EST to 4:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Examiners Initials: CD  
July 14, 2006

  
**CHRISTOPHER GRANT**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2600**